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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

IMELDA APARICIO,

Plaintiff,

v.

STERLING JEWELERS INC. d/b/a KAY  
JEWELERS; and DOES 1 – 10 inclusive,

Defendants.

Case No.:

Hon.

**NOTICE OF REMOVAL OF  
ACTION UNDER 28 U.S.C. § 1441**

**[FEDERAL QUESTION  
JURISDICTION]**

Superior Court Case No.: 18STLC03857  
Action Filed: March 8, 2018

**TO ALL INTERESTED PARTIES:**

**PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, *defendant* Sterling Jewelers Inc. d/b/a Kay Jewelers (“Sterling”) hereby removes to this Court the state court action described below.

**I. BACKGROUND**

1. On March 8, 2018, *plaintiff* Imelda Aparicio (“Plaintiff”) commenced an action in the Superior Court of the State of California for the County of Los Angeles

(the “Superior Court”) by filing a complaint (the “Complaint”) against Sterling, which initiated *Aparicio v. Sterling*, Case Number 18STLC03857 (the “State Court Action”). True and correct copies of the Summons, Complaint, Civil Case Cover Sheet and the Superior Court’s Standing and General Orders are collectively attached hereto as **Exhibit 1**.

2. Sterling was served with a copy of the Complaint on March 9, 2018. Pursuant to 28 U.S.C. § 1446(b) and Federal Rules of Civil Procedure Rule 6, this notice has been timely filed because it is being filed within 30 days of Sterling’s receipt of the Complaint.

3. As of the date of this notice, Sterling has not filed an answer or otherwise responded to the Complaint. Accordingly, Sterling is informed and believes that the Summons, Complaint, Civil Case Cover Sheet, and Superior Court Standing and General Orders attached hereto as **Exhibit 1** constitute all process, pleadings, and orders in the State Court Action.

4. The Superior Court has scheduled a non-jury trial for September 5, 2019, and an Order to Show Cause hearing for Plaintiff’s failure to file a proof of service for March 11, 2021. It has not otherwise scheduled or conducted any hearings as of the date of this notice. A true and correct copy of the docket in the State Court Action is attached hereto as **Exhibit 2**.

5. Pursuant to 28 U.S.C. § 1446(d), Sterling will promptly give written notice of the removal of the State Court Action to all adverse parties and will file a copy of this notice with the Clerk of Los Angeles County Superior Court.

## **II. VENUE**

6. Pursuant to 28 U.S.C. § 1441(a), the United States District Court for the Central District of California – Western Division is the proper venue for the removed State Court Action because it is the judicial district and division in which the State Court Action is pending.

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### 1 **III. FEDERAL QUESTION JURISDICTION**

2 7. This action is a civil action over which this Court has original jurisdiction  
 3 under 28 U.S.C. § 1331 because the Complaint requires a determination as to whether  
 4 Sterling violated “laws...of the United States.” *See* 28 U.S.C. § 1331. Specifically, the  
 5 Complaint alleges that Sterling violated the Telephone Consumer Protection Act, 47  
 6 U.S.C. § 227, *et seq.* (the “TCPA”). (*See* Compl., ¶¶ 1, 17, 21-26). Plaintiff alleges  
 7 that Sterling negligently and/or willfully violated the TCPA by using an automatic  
 8 telephone dialing system to place telephone calls in order to collect on a debt, for  
 9 which she was charged. (*See* Compl., ¶¶ 12-14, 17). Moreover, while couched as a  
 10 claim under California’s Rosenthal Fair Debt Collection Practices Act, Plaintiff’s  
 11 Complaint also alleges that Sterling violated provisions of the federal Fair Debt  
 12 Collection Practices Act. (*See* Compl., ¶¶ 15-16).

13 8. By virtue of these claims, the resolution of this action will necessarily  
 14 require the Court to adjudicate disputed questions of federal law. It follows that  
 15 Sterling may remove the State Court Action to this court pursuant to the provisions of  
 16 28 U.S.C. § 1441. *See also Mims v. Arrow Fin. Servs., LLC*, 565 U.S. 368, 376 (2012)  
 17 (Federal courts have concurrent jurisdiction over private suits arising under the  
 18 TCPA); *Beneficial Nat’l Bank v. Anderson*, 539 U.S. 1, 6 (2003) (“[A] civil action  
 19 filed in a state court may be removed to federal court if the claim is one ‘arising  
 20 under’ federal law”).

21 9. To the extent Plaintiffs’ Complaint states causes of action that are not  
 22 based on federal law, this Court has supplemental jurisdiction. This is because any  
 23 such claims: (i) arise from the same set of operative facts that underlie Plaintiff’s  
 24 TCPA claim; and (ii) relate to the same subject matter; namely, Sterling’s alleged  
 25 debt-collection telephone calls to Plaintiff. Accordingly, Plaintiff’s state-law claims  
 26 are related to her federal question allegations, thereby forming a part of the “same  
 27 case and controversy” pursuant to 28 U.S.C. § 1367(a).

28 ././

1 **IV. RESERVATION OF RIGHTS**

2 10. Sterling reserves the right to supplement this notice when, and if,  
3 additional information becomes available. In addition, Sterling reserves all rights,  
4 including, but not limited to, defenses and objections as to venue, personal  
5 jurisdiction, and service. The filing of this notice is subject to, and without waiver of,  
6 any such defense or objection.

7 **WHEREFORE**, Sterling prays that the State Court Action be removed from  
8 the Superior Court to this Court and that this Court assume jurisdiction over – and  
9 determine – the action on the merits.

10  
11 DATED: April 6, 2018

**McGLINCHEY STAFFORD**

12  
13 By: /s/ Dhruv M. Sharma

14 DHRUV M. SHARMA  
15 Attorneys for Defendant **STERLING JEWELERS INC. d/b/a KAY JEWELERS**

16 DATED: April 6, 2018

**SESSIONS, FISHMAN, NATHAN & ISRAEL, L.L.P.**

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18  
19 By: Harijot S. Khalsa

20 HARIJOT S. KHALSA  
21 Attorneys for Defendant **STERLING JEWELERS INC. d/b/a KAY JEWELERS**

22  
23 **ATTESTATION**

24 Pursuant to Civil Local Rule 5-4.3.4(a)(2)(i), the undersigned attests that he  
25 obtained concurrence in the filing of this document from the other signatories.  
26

27 Dated: April 6, 2018

/s/ Dhruv M. Sharma

28 Dhruv M. Sharma